

106TH CONGRESS
1ST SESSION

H. R. 2240

To amend title XVIII of the Social Security Act to revise payment amounts to home health agencies under the Medicare Program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 16, 1999

Mr. COYNE (for himself, Mr. ENGLISH, Mr. HILLIARD, Mr. LEVIN, Mr. SANDERS, Mr. SAXTON, and Mr. SMITH of New Jersey) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title XVIII of the Social Security Act to revise payment amounts to home health agencies under the Medicare Program, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Medicare Home Health
5 Access Restoration Act of 1999”.

6 **SEC. 2. ADJUSTMENT TO PER BENEFICIARY LIMITS.**

7 (a) INCREASE IN PAYMENT AMOUNT TO AGENCIES
8 WITH LIMITS UNDER THE NATIONAL AVERAGE.—Section

1 1861(v)(1)(L) of the Social Security Act (42 U.S.C.
2 1395x(v)(1)(L)), as amended by section 5101(a) of the
3 Tax and Trade Relief Extension Act of 1998 (Public Law
4 105-277), is amended—

5 (1) in clause (v)(I), by inserting “, clause (ix)”
6 after “subject to clause (viii)(I)”;

7 (2) in clause (viii)(I), by striking “during or
8 after fiscal year 1999” and inserting “during fiscal
9 year 1999”;

10 (3) by redesignating clause (ix) as clause (xii);
11 and

12 (4) by inserting after clause (viii) the following
13 new clause:

14 “(ix) In the case of a provider with a 12-month cost
15 reporting period ending in fiscal year 1994, if the limit
16 imposed under clause (v) (determined without regard to
17 this subclause) for a cost reporting period beginning after
18 fiscal year 1999 is less than the median described in
19 clause (vi)(I) (but determined as if any reference in clause
20 (v) to ‘98 percent’ were a reference to ‘100 percent’), the
21 payment limit for such provider and period shall be equal
22 to—

23 “(I) for cost reporting periods beginning during
24 fiscal year 2000, 90 percent of such median;

1 “(II) for cost reporting periods beginning dur-
2 ing fiscal year 2001, 95 percent of such median; and

3 “(III) for cost reporting periods beginning dur-
4 ing or after fiscal year 2002, such median.

5 Each of the amounts specified in subclauses (I) through
6 (III) are such amounts as adjusted under clause (iii) to
7 reflect variations in wages among different areas.”.

8 (b) ESTABLISHMENT OF PER BENEFICIARY CAP;
9 WAIVER.—

10 (1) IN GENERAL.—Section 1861(v)(1)(L) of
11 such Act (42 U.S.C. 1395x(v)(1)(L)), as amended in
12 subsection (a), is further amended—

13 (A) in clause (v)(I), by inserting “, and
14 clause (x)” after “clause (ix)”; and

15 (B) by inserting after clause (ix), the fol-
16 lowing new clause:

17 “(x) In the case of a provider with a 12-month cost
18 reporting period ending in fiscal year 1994, if the limit
19 imposed under clause (v) (determined without regard to
20 this subclause) for a cost reporting period beginning after
21 fiscal year 1999 exceeds the median described in clause
22 (vi)(I) (but determined as if any reference in clause (v)
23 to ‘98 percent’ were a reference to ‘100 percent’), the pay-
24 ment limit for such provider and period may not exceed—

1 “(I) for cost reporting periods beginning during
2 fiscal year 2000, an amount equal to 250 percent of
3 such median;

4 “(II) for cost reporting periods beginning dur-
5 ing fiscal year 2001, an amount equal to 225 per-
6 cent of such median; and

7 “(III) for cost reporting periods beginning dur-
8 ing or after fiscal year 2002, an amount equal to
9 200 percent of such median.

10 Notwithstanding the previous sentence, in the case of such
11 a provider that demonstrates to the Secretary (in such
12 form and using such data as the Secretary requires) that,
13 for a cost reporting period, the provider, or a unit of the
14 provider, specializes in the treatment of individuals who,
15 because of age, diagnosis, or other criteria specified by the
16 Secretary are substantially more costly-than-average to
17 treat, the amount of payment to that provider or unit for
18 such an individual for that period is the limitation deter-
19 mined under clause (v).”.

20 (2) CONSULTATION.—The Secretary of Health
21 and Human Services shall consult with appropriate
22 organizations, including such organizations rep-
23 resenting providers of home health services, physi-
24 cians, and patients in determining the criteria re-
25 quired for special payment provisions under the sec-

1 ond sentence of clause (x) and under clause (xi) of
2 section 1861(v)(1)(L) of the Social Security Act (42
3 U.S.C. 1395x(v)(1)(L)), including descriptions of
4 the type of patient, patient condition, unusual vari-
5 ations, and home health service that qualifies for
6 such payment.

7 (c) WAIVER OF PER BENEFICIARY LIMIT FOR
8 OUTLIERS.—

9 (1) IN GENERAL.—Section 1861(v)(1)(L) of
10 such Act (42 U.S.C. 1395x(v)(1)(L)), as amended in
11 subsections (a) and (b), is further amended by in-
12 serting after clause (x), the following new clause:

13 “(xi)(I) Notwithstanding the applicable limit under
14 clause (v), (vi), (viii), (ix), or (x), in the case of a provider
15 that demonstrates to the Secretary that with respect to
16 an individual to whom the provider furnishes home health
17 services that are appropriate to the individual’s condition
18 (as determined by the Secretary) at a reasonable cost (as
19 determined by the Secretary), and that such reasonable
20 cost significantly exceeded such applicable limit because
21 of unusual variations in the type or amount of medically
22 necessary care (outliers) required to treat the individual,
23 the Secretary, upon application by the provider, shall pay
24 to such provider for such individual such reasonable cost.

1 “(II) The Secretary shall establish such criteria as
2 is required for payment under this clause, including a de-
3 scription of the type of patient, patient condition, unusual
4 variations, and home health service that qualifies for such
5 payment.

6 “(III) In making determinations under subclause (I),
7 the Secretary shall use data from the cost report, or from
8 other data collected by the Secretary, of the provider for
9 such year.

10 “(IV) A provider may make an application for pay-
11 ment under this clause for a fiscal year no earlier than
12 the end of the provider’s cost reporting period beginning
13 in such fiscal year.

14 “(V) In the case of an application for payment under
15 this clause that is approved by the Secretary, a provider
16 may elect to receive payment on a quarterly basis.”.

17 (2) EFFECTIVE DATE.—The amendment made
18 by subsection (a) takes effect six months after the
19 date of the enactment of this Act, and applies with
20 respect to applications by home health agencies for
21 payment of reasonable costs for outliers for cost re-
22 porting periods ending on or after such date.

23 (d) REPORTS TO CONGRESS.—

24 (1) INITIAL REPORT.—Not later than one year
25 after the date of the enactment of this Act, the Sec-

1 retary of Health and Human Services shall submit
2 to Congress a report describing the effect of the spe-
3 cial payment provisions provided for under the sec-
4 ond sentence of clause (x) and under clause (xi) of
5 section 1861(v)(1)(L) of the Social Security Act (42
6 U.S.C. 1395x(v)(1)(L)). Such report shall include
7 information with respect to the number of home
8 health agencies that requested payment under such
9 provisions and the number of such agencies that re-
10 ceived payment under such provisions.

11 (2) FINAL REPORT.—Not later than three years
12 after the date of the enactment of this Act, the Sec-
13 retary shall submit to Congress a report that up-
14 dates the report submitted under paragraph (1), in-
15 cluding additional information with respect to the ill-
16 nesses, and the characteristics of such illnesses, of
17 the patients for whom payment under such special
18 provisions was requested, and the characteristics of
19 the home health agencies furnishing home health
20 services to such patients for such illnesses.

21 **SEC. 3. REVISION OF PER VISIT LIMITS.**

22 Section 1861(v)(1)(L)(i) of the Social Security Act
23 (42 U.S.C. 1395x(v)(1)(L)(i)), as amended by section
24 5101(b) of the Tax and Trade Relief Extension Act of
25 1998 (Public Law 105–277), is amended—

1 (1) in subclause (IV), by striking “or”;

2 (2) in subclause (V)—

3 (A) by inserting “and before October 1,
4 1999,” after “October 1, 1998,”; and

5 (B) by striking the period at the end and
6 inserting “, or”; and

7 (3) by adding at the end the following new sub-
8 clause:

9 “(V) October 1, 1999, 110 percent of such me-
10 dian.”.

11 **SEC. 4. ELIMINATION OF CONTINGENT 15 PERCENT REDUC-**
12 **TION IN PAYMENT LIMITS UNDER THE IN-**
13 **TERIM PAYMENT SYSTEM.**

14 Section 4603 of the Balanced Budget Act of 1997
15 (Public Law 105–33), as amended by section 5101(c)(3)
16 of the Tax and Trade Relief Extension Act of 1998 (Pub-
17 lic Law 105–277) (111 Stat. 471), is amended by striking
18 subsection (e).

19 **SEC. 5. INFORMATIONAL MATERIALS FOR MEDICARE BENE-**
20 **FICIARIES WITH RESPECT TO HOME HEALTH**
21 **SERVICES.**

22 (a) IN GENERAL.—The Secretary shall prepare a no-
23 tice of the rights of individuals entitled to benefits under
24 the medicare program (under title XVIII of the Social Se-
25 curity Act) to appeal a coverage determination with re-

1 spect to items and services furnished to such individual
2 under the program. In the case of such items and services
3 consisting of home health services furnished by a home
4 health agency, the home health agency shall furnish such
5 notice to such an individual upon discharge by the agency
6 of such individual from such services.

7 (b) INFORMATION FOR PHYSICIANS.—The Secretary
8 shall provide guidance for physicians contacted by affected
9 individuals to assist such individuals, including specific
10 guidance in the case of such individuals for whom home
11 health services are discontinued before the recommended
12 treatment is complete, but on behalf of whom payment
13 under the limits established under section 1861(v)(1)(L)
14 of the Social Security Act (42 U.S.C. 1395x(v)(1)(L)) has
15 been made in full by the Secretary to the home health
16 agency. The materials shall include telephone numbers
17 and such other information to enable the physician to seek
18 further assistance or clarification from individuals within
19 the Health Care Financing Administration with appro-
20 priate expertise.

21 (c) REQUESTS FOR ADDITIONAL RESOURCES.—The
22 Secretary may submit to Congress an estimate of addi-
23 tional resources required by the Health Care Financing
24 Administration to comply with the provisions of the sec-

tion. Any such estimate shall be included in the report required under paragraph (1) of section 2(d).

(d) EFFECTIVE DATE.—By not later than six months after the date of the enactment of this Act, the Secretary shall begin distributing to home health agencies furnishing home health services under the medicare program (under title XVIII of the Social Security Act), and to physicians furnishing services under such program, the information prepared under this section.

**SEC. 6. COMPTROLLER GENERAL STUDY ON MEDICARE
HOME HEALTH BENEFIT.**

(a) STUDY.—

(1) COST OF SERVICES.—The Comptroller General of the United States shall conduct a study on the relationship between the costs to the medicare program (under title XVIII of the Social Security Act) for home health services furnished by home health agencies under the program, and the costs to State and Federal government programs (including the medicare program and the medicaid program (under title XIX of such Act)) for services furnished by rehabilitation agencies, public health agencies, clinics, comprehensive outpatient rehabilitation facilities, skilled nursing facilities under the medicare program, and for long-term care services furnished

1 under the medicaid program (under title XIX of
2 such Act).

3 (2) DETERMINATION OF SAVING OVERALL TO
4 MEDICARE PROGRAM.—The Comptroller General
5 shall also determine whether providing home health
6 services as a benefit under the medicare program
7 has resulted in lower costs overall to the Federal
8 government.

9 (b) REPORT.—Not later than 18 months after the
10 date of the enactment of this Act, the Comptroller General
11 shall submit to Congress a report describing the results
12 of the study conducted under subsection (a).

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